

GREGORY G. KATSAS
Acting Assistant Attorney General
JOSEPH P. RUSSONIELLO
United States Attorney
R. MICHAEL UNDERHILL
Attorney in Charge
West Coast Office
JEANNE M. FRANKEN
Trial Attorney
U.S. Department of Justice
Torts Branch, Civil Division
450 Golden Gate Avenue, Room 7-5395
P.O. Box 36028
San Francisco, California 94102-3463
Telephone: (415) 436-6644
Telefax: (415) 436-6632
E-mail: jeanne.franken@usdoj.gov

Of Counsel:
PATRICIA E. BYRNE
Attorney Adviser
Office of Chief Counsel
Maritime Administration
U.S. Department of Transportation
400 Seventh Street, SW, Room 7313
Washington, D.C. 20530
Telephone: (202) 366-5172

Attorneys for Plaintiff
United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

| | | |
|----------------------------------------------|---|----------------------------|
| UNITED STATES OF AMERICA, |) | Civil No.: CV07-6162 BZ |
| |) | |
| Plaintiff, |) | AT LAW AND IN ADMIRALTY |
| |) | |
| v. |) | |
| |) | |
| Tackle, apparel, furnishings, spares, tools, |) | SECOND |
| equipment and certain other appurtenances of |) | CASE MANAGEMENT STATEMENT |
| the SS INDEPENDENCE (O.N. 261147), |) | BY PLAINTIFF UNITED STATES |
| <u>in rem</u> , |) | |
| |) | Conference: August 4, 2008 |
| Defendant. |) | Time: 4:00 PM |

Pursuant to this Court's orders, the Local Rules of Court and the Federal Rules of Civil Procedure, plaintiff United States submits a second case management conference

1 statement. No appearance has been made on behalf of the defendant res, by any alleged
2 owner, or by any other lien claimant.

3 1. Jurisdiction and Service:

4 This is a ship mortgage foreclosure action in admiralty by the United States of
5 America, pursuant to Rule 9(h) of the Fed.R.Civ.Pro., against certain furnishings, equipment,
6 appurtenances, etc., of the vessel previously known as the SS INDEPENDENCE, in rem.
7 The aforesaid defendant items remain at an office of the United States Maritime
8 Administration ("MARAD") in San Francisco and in its warehouse in Alameda, within this
9 District and the jurisdiction of this Court. The Government previously foreclosed on the ship
10 in a proceeding in the Eastern District of California, where the vessel was sold and its sale
11 confirmed, in partial satisfaction of its indebtedness to the Government under the mortgage.
12 A significant deficiency remains. Pursuant to this Court's process, the defendant items were
13 arrested in San Francisco and Alameda, and turned over to the Court appointed substitute
14 custodian at MARAD for safekeeping. Notice of the arrest was duly published. No
15 intervenors appeared within the applicable time limits. Application was thereafter made for
16 entry of default by the Clerk against the defendant items and future intervenors, if any, and
17 the Clerk entered default as to the defendant only. Inventories have also now been
18 performed.

19 2. Facts:

20 The owner of the SS INDEPENDENCE defaulted on Government guaranteed
21 obligations which led to the turn over of the ship and its equipment, appurtenances, etc., to
22 MARAD after relief from the Bankruptcy stay was obtained; the movement of the vessel to
23 and its arrest in the Eastern District of California; and the eventual sale of the ship in that
24 District in partial satisfaction of the amount owing to the Government. Some equipment and
25 appurtenances of the ship, mostly from its gift shop, were retained for safekeeping in
26 MARAD facilities in the Northern District of California, and are now the subject of this
27

1 separate admiralty foreclosure action.

2 3. Legal Issues:

3 No appearance on behalf of the defendant res was made; default has now been entered
4 against the defendant res, pursuant to Federal Rule of Civil Procedure 55 (a); and no parties
5 have intervened. Accordingly, it does not appear that the Government's claims will be
6 challenged.

7 4. Motions:

8 The United States anticipates moving for interlocutory sale of the defendant items by
9 the Marshal once a few issues about how to handle such a sale are resolved. Confirmation
10 of the sale thereafter, and entry of final judgment will likely conclude this action.

11 5. Amendment of Pleadings:

12 None anticipated at this time.

13 6. Evidence Preservation:

14 The documents presented with the Complaint constitute the primary evidence of the
15 mortgage and the obligations in this case. Otherwise, the client agency has been instructed
16 to preserve its files.

17 7. Disclosures:

18 No other parties have appeared. The basic documents in support of the Government's
19 case are attached to its Complaint.

20 8. Discovery:

21 None anticipated at this time.

22 9. Class Actions:

23 Not applicable.

24 10. Related Cases:

25 None are know to be presently pending. The aforementioned action against the vessel
26 in the Eastern District has been concluded.

11. Relief:

The United States seeks to sell the defendant appurtenances in an admiralty sale and apply the proceeds to the outstanding deficiency.

12. Settlement and ADR:

This does not appear necessary.

13. Consent to Magistrate Judge for All Purposes:

The United States has so consented.

14. Other References:

Nothing.

15. Narrowing of Issues:

Nothing.

16. Expedited Schedule:

Once an appropriate methodology has been finalized, the United States intends to move for interlocutory sale of the defendant items, in rem, which, upon confirmation of the sale and distribution of any proceeds therefrom, will likely conclude this case.

17. Scheduling:

The United States suggests a further case management conference, if necessary, in 4 months time.

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18. Trial:

At this time it appears that a trial will not be necessary in this case.

19. Disclosure of Non-Party Interested Entities or Persons:

None are known to the United States at this time.

Dated: July 16, 2008

GREGORY G. KATSAS
Acting Assistant Attorney General
JOSEPH P. RUSSONIELLO
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R. MICHAEL UNDERHILL
Attorney in Charge
West Coast Office

/s/ Jeanne M. Franken
JEANNE M. FRANKEN
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